

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2017 JAN 26 AM 11:14
OFFICE OF THE CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:

Inspection of workplace

Case No. 17 MJ 14

Various Properties along the railroad tracks
where railcars are located in or around
302 Pierce Street to 120 Center, Omaha, NE 68108

under the control or custody of

TITAN RAILCAR SERVICES, LLC.

ADMINISTRATIVE SEARCH WARRANT

TO: Jeff Funke
Area Director
Occupational Safety and Health
Administration
Omaha Area Office

Application having been made, and reasonable cause having been shown for the inspection of the workplaces described as various properties along the railroad tracks where railcars are located in or around 302 Pierce Street to 120 Center, Omaha, NE 68108,

IT IS HEREBY ORDERED that, pursuant to section 8(a) of the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651-678, 657(a), YOU OR YOUR DULY DESIGNATED REPRESENTATIVES ARE AUTHORIZED to enter the above-described workplaces during regular working hours or at other reasonable times, to make an inspection and investigation of the following alleged violations:

Complaint Item	Location	Hazardous Condition	Applicable Standard
1	Rail Tank Cars and surrounding areas	Employees are exposed to fire and explosion hazards in that ignition sources including, but not limited to, burning cigarettes, sparking tools, and the Hotsy pressure washer, are used in close proximity to flammable ethanol vapors.	29 CFR 1910.106(e)(6)(i)
2	Rail Tank Cars and surrounding areas	Employees are exposed to fire, explosion and respiratory hazards while entering and cleaning rail tank cars containing ethanol and crude oil in that employees were told to enter a railcar containing flammable vapors when the atmospheric testing results prior to entry showed that the LEL inside the railcar was explosive, in excess of 10% of the LEL	29 CFR 1910.146(d)(3)(vi) 1910.134
3	Rail Tank Cars and surrounding areas	Employees are exposed to fire, explosion, and respiratory hazards while entering and cleaning rail tank cars containing chemicals including, but not limited to, ethanol and crude oil in that the permit confined spaces are not adequately tested or monitored throughout the entry to ensure that the percent LEL is maintained at safe levels at all times while employees are inside railcars.	29 CFR 1910.146(d)(5)(ii) 1910.134
4	Rail Tank Cars and surrounding areas	Employees are exposed to fire, explosion, and respiratory hazards while entering and cleaning rail tank cars containing chemicals including, but not limited to, ethanol and crude oil in that the entry supervisors are not accurately recording the percent LEL testing on the entry permits when permitting employees to enter railcars. Entry permits are falsely marked with the percent LEL test results being under 9% when they have been above that level, or when	29 CFR 1910.146(f)(10) 1910.134

Complaint Item	Location	Hazardous Condition	Applicable Standard
		atmospheric testing has not been performed at all.	
5	Rail Tank Cars and surrounding areas	Employees are exposed to respiratory hazards while using negative pressure cartridge type respirators that are not provided new cartridges when the end of service life indicator shows that the cartridges need to be replaced.	1929 CFR 1910.134(d)(1)(ii)

Said inspection will also allow a review of all aspects of 29 CFR 1910.106, 1910.134, and 1910.146, related to flammable liquids, respiratory protection, and permit-required confined spaces, collect OSHA 300 data for the previous three years, and evaluate the employer's safety and health programs in accordance with the CPL 02-00-160, Field Operations Manual (FOM) (hereinafter CPL 02-00-160). All hazards in plain view will be addressed.

Said inspection to include all relevant records files and papers and all relevant work places or environments where work is performed by employees, and all pertinent conditions, and circumstances, structures, machines, apparatus, devices, equipment, materials, processes, controls, and facilities and all other things therein including videotaping, the taking of photographs, environmental samples including the use of personal sampling equipment, and measurements, relating to the alleged violations, and to question privately any employee or agent, bearing on whether employees are being furnished employment and place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees, and whether there is compliance with the occupational safety and health standards promulgated under the Act.

You are hereby directed not to disclose any information obtained during the

inspection which is designated to be a trade secret as defined by 18 U.S.C. § 1905, except that such information may be disclosed to other officers or employees concerned with carrying out the Act or when relevant in any proceeding under the Act.

A return shall be made to this Court showing that the inspection has been completed. The inspection authorized herein shall be initiated within 7 days, and a return shall be made to the Court within fourteen days following completion of the inspection.

DATED: 1/20/17



F. A. GOSSETT
United States Magistrate Judge



RETURN OF SERVICE

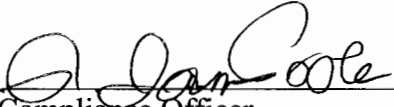
I hereby certify that a copy of the within warrant was duly served on
Steven M. Braithwaite, to the company named herein:

Titan Railcar Services, LLC.
115 Hickory Street
Omaha, NE 68108

RETURN

I declare under penalty of perjury that the inspection of the workplaces described in
this warrant was made on January 23, 2017.

Date: January 26, 2017

By: 
Compliance Officer
Occupational Safety and Health Administration
United States Department of Labor